

REMARKS

This is intended as a full and complete response to the Office Action dated June 19, 2006, having a shortened statutory period for response set to expire on September 19, 2006. Claims 1-10 are pending in the application. Claims 1-6 have been examined. Claims 7-10 have been withdrawn by the Examiner. The Examiner rejected claims 1-3, 5, and 6 under 35 U.S.C. §102(e) as being anticipated by Russell (6,990,282 B2). The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being obvious over Russell (6,990,282 B2) in view of White (6,594,429 B1).

Election/Restrictions

In a phone conversation with the Examiner on June 7, 2006, a provisional election was made to prosecute Invention 1, claims 1-6, without traverse. The election is hereby affirmed.

Claim Rejections Under 35 U.S.C. § 102(e)

The Examiner rejected claim 1 as being anticipated by Russell. In response, Applicant has amended claim 1.

As amended, claim 1 includes the limitations of (i) a substrate (ii) a buffer layer and a core layer disposed on the substrate, wherein a lateral refractive index distribution of the focusing device material is homogeneous, and (iii) a plurality of holes formed in the layers such that the holes are substantially perpendicular to the substrate and the holes introduce a graded refractive index profile. Russell does not disclose a buffer layer and a core layer disposed on a substrate and a plurality of holes formed in the layers such that the holes are substantially perpendicular to the substrate and the holes introduce a graded refractive index profile. In contrast, Russell discloses a fiber comprising a bulk material having an arrangement of longitudinal holes (see Russell, Figures 2 and 3). Moreover, contrary to the assertion by the Examiner, Russell does not teach or disclose a substrate. Rather, Russell merely discloses a fiber having a cladding region, a guiding core, and a cylinder of transparent bulk material at an end thereof (see Russell, col. 5, lines 65-67 and col. 6, lines 1-10). There is simply no teaching or suggestion in Russell of a substrate with a buffer layer and a core layer, wherein a plurality of holes formed in the buffer layer and a core layer such that the holes are substantially perpendicular to the substrate and the holes introduce a graded refractive index profile.

As the foregoing illustrates, Russell fails to teach or suggest all the limitations of claim 1. This failure precludes Russell from anticipating claim 1. Therefore, Applicant respectfully requests the 102(e) rejection of claim 1 be removed and allowance of the same. Additionally, since claims 2-3 and 6 and new claims 11-14 depend from claim 1, these claims are allowable for at least the same reasons as claim 1.

Claim Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claim 4 as being obvious over Russell in view of White. Applicant respectfully traverses the rejection. Claim 4 depends from claim 1. As set forth above, Russell fails to teach or suggest all the limitations in claim 1. White fails to cure the deficiencies of Russell. This failure precludes the combination of Russell and White from rendering claim 4 obvious. Applicant therefore submits that claim 4 is in condition for allowance and respectfully requests withdrawal of the § 103(a) rejection.

New Claims

New claims 15-23 have been added to claim aspects of the present invention. Applicant submits that no new matter has been added and that the new claims read on the elected invention. Further, Applicant believes that the references cited by the Examiner does not teach or suggest a focusing device comprising a substrate, a layer stack disposed on the substrate, the layer stack comprising a buffer layer and a core layer and a plurality of holes formed in the layer stack, wherein the holes are arranged substantially perpendicular to an incident beam of light which enters the focusing device and the holes are configured to introduce a graded refractive index profile, as recited in new claims 15-23. Therefore, Applicant believes that new claims 15-23 are in condition for allowance and respectfully requests the same.

Conclusion

Having addressed all issues set out in the office action, Applicant respectfully submits that the case is in condition for allowance. If the Examiner has any questions, please contact the Applicant's undersigned representative at the number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter C. Grollitsch", written over a horizontal line.

Walter C. Grollitsch
Registration No. 48,678
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant